

**REMARKS**

The Final Office Action dated September 25, 2006 has been carefully considered. Claims 3-26 are pending. The above amendments and the following remarks are presented in a sincere attempt to place this Application in condition for allowance. Claims 3, 9, 17, 22, and 24-26 have been amended in this response. Reconsideration and allowance are respectfully requested in light of the above amendments and the following remarks.

Claims 3, 5-16 and 22-23 stand rejected under 35 U.S.C. §103(a) by U.S. Patent No. 6,516,196 to Chen et al. ("Chen") in view of U.S. Patent No. 6,430,414 to Sorokine et al. ("Sorokine") and further in view of allegedly admitted prior art ("AAPA"), and further in view of U.S. Patent No. 6,625,137 to Kang ("Kang"), all four references being referred to as "the combination." In light of the amendments submitted herewith, the Applicants respectfully submit that the rejections have been overcome.

Independent Claim 3 as amended particularly recites one of the distinguishing characteristics of the present invention, namely, "a base station controller (BSC), comprising an active set generator and a reduced active set generator, wherein the reduced active set generator employs output of the active set generator, and wherein the BSC is configured to send indicia of the reduced active set to at least one Base Transceiver Station (BTS) and wherein each BTS of the reduced active set transmits data rate control information over a reverse dedicated congestion control channel (RDCCCH) during at least some times when the reduced active set comprises more than one BTS, and transmits data rate control information over a reverse shared channel assignment channel (RSCACH) during at least some times when the reduced active set comprises only one BTS" (emphasis added). Support for these amendments can be found at page 9, lines 17-19 and page 10, lines 14-25 of the Application as originally filed.

Regarding Claim 3, Chen was cited as assertedly fully disclosing the following: (1) a base station controller (BSC), (2) an active set generator, (3) a reduced active set generator, wherein the reduced active set generator employs output of the active set generator, (4) a BSC, (5) configured to send indicia of the reduced active set, and (6) wherein more than one BTS of the reduced active set transmits control information over a control channel (emphasis added). Sorokine was cited as assertedly fully disclosing a BSC that sends to a BS (BTS) a NLUM (equivalent to claimed reduced active set or subset). Additionally, the AAPA was cited as assertedly fully disclosing that these are particular requirements of conventional CDMA systems. Kang was cited as assertedly disclosing setting up supplemental channels SCH with mobile station MS by sending control information from a BTS of the reduced active set to an MS. The Examiner further stated that it would have been obvious to combine the teachings of Chen, Sorokine, the AAPA and Kang in order to comply with system requirements as taught by AAPA and because this would have been the best engineering design choice.

The combination of Chen, Sorokine, the AAPA and Kang does not suggest, teach, or disclose the unique combination now recited in Claim 3. Specifically, the combination of Chen, Sorokine and the AAPA does not disclose clearly that setting up supplemental channels with mobile stations requires sending control information by a BTS of a reduced active set to the mobile stations. However, Kang discloses a BTS sending a supplemental channel assignment message to a mobile station for determining a number of supplemental code channels to be used (NUM\_SUP) and the duration (DUR) of the connection. There is no suggestion of setting a particular data rate for any of the supplemental code channels. Moreover, there is no suggestion in the references cited, either singly or in combination, of any factors other than whether or not a mobile station is in a soft-handoff situation for determining whether a congestion control mode or an explicit mode should be

used, or any instance in which, for example, a congestion control mode may be utilized during at least some times when a reduced active set comprises more than one BTS or that an explicit data rate assignment mode may be used during at least some times when a reduced active set comprises only one BTS (emphasis added). Accordingly, the Applicants respectfully submit that the proposed combination fails to render the claimed invention obvious.

In view of the foregoing, it is apparent that the cited reference does not disclose, teach or suggest the unique combination now recited in amended Claim 3. Applicants therefore submit that amended Claim 3 is clearly and precisely distinguishable over the cited references in a patentable sense, and is therefore allowable over these references and the remaining references of record. Accordingly, Applicants respectfully request that the rejection of amended Claim 3 under 35 U.S.C. §103(a) be withdrawn and that Claim 3 be allowed.

Claim 4 stands rejected under 35 U.S.C. §103(a) by Chen, in view of Sorokine, in further view of the AAPA, and in view of Kang, and further in view of U.S. Patent No. 6,430,414 to Rohani ("Rohani). Insofar as it may be applied against the Claim, the Applicants respectfully submit that the rejection has been overcome.

Claims 4-8 depend on and further limit Claim 3. Hence, for at least the aforementioned reasons, these Claims would be deemed to be in condition for allowance. Applicants respectfully request that the rejections of the dependent Claim 4-8 also be withdrawn.

Claims 17-21 and 24-26 stand rejected under 35 U.S.C. §103(a) by Chen in view of Kang. Insofar as they may be applied against the Claims, the Applicants respectfully submit that the rejections have been overcome.

Applicants contend that the rejections of Claims 9-26 are overcome for at least some of the reasons that the rejection of Claim 3 is overcome. These reasons include that Kang does not teach,

suggest or disclose sending data rate control information for setting a particular data rate for any of the supplemental code channels (emphasis added).

Applicants have now made an earnest attempt to place this Application in condition for allowance. For the foregoing reasons and for other reasons clearly apparent, Applicants respectfully request full allowance of Claims 3-26.

Applicants do not believe that any fees are due; however, in the event that any fees are due, the Commissioner is hereby authorized to charge any required fees due (other than issue fees), and to credit any overpayment made, in connection with the filing of this paper to Deposit Account No. 50-0605 of CARR LLP.

Should the Examiner deem that any further amendment is desirable to place this Application in condition for allowance, the Examiner is invited to telephone the undersigned at the number listed below.

Respectfully submitted,

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